

Application Serial No. 10/697,855

REMARKS/ARGUMENTS**Claims Rejections****35 U.S.C. 102(b) Rejection**

The Examiner has rejected claims 1-6, 8/5 and 8/6 as lacking novelty and therefore as unpatentable over U.S. Patent No. 1,795,413 issued to Stiles.

In particular, the Examiner takes the position that Stiles shows a railroad switch including a basket housing having head portion 21 and lower portion 5, where said lower portion is provided with a through opening for receiving rod 2 and at least one abutment 10 for limiting movement of a surface 9 associated with rod 3. The Examiner states that head portion is provided with a bore 22 for receiving a bolt 23, and that a single bore and bolt would be capable of rotation about an axis of rotation in bore 22 which does not intersect the longitudinal axis of the housing.

As the examiner indicated, the use of a single bore 22 and bolt 23 would not prevent rotation of the housing about an axis of rotation through the bore 23. However, Stiles clearly indicates that the housing is "fixedly attached to the tie bar" 1 through bracket member 5 (page 1, lines 56-58). Stiles further discusses this connection on page 2 at lines 25-31, stating that "the bracket member has been described as being rigidly connected to the tie-bar". Stiles then discusses a using bolts 23 to detachably secure the bracket 5 to the tie-bar. The term "rigid attachment" therefore precludes rotation or other movement of the bracket once it is attached to the tie-bar. The technical reasons for requiring a rigid attachment in Stiles are obvious: as rod 2 moves laterally, housing 5 moves laterally once the nuts 8 abut sleeves 14. The point of the fixed and rigid connection between the housing and the tie-bar is to move the tie-bar in the same lateral direction, with an essentially direct translation between the throw of the switch machine and movement of the switch rods. In contrast, the housing of the instant application contains means to translate lateral motion of the switch machine into

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rotational or torsional motion of the assist rods to the heel and front end switch rods of the switch. This is claimed in claim 1 as "means to rotatably retain an arm associated with the housing", and in claim 5 as "a bore receiving a pin for rotation". The invention as claimed therefore performs a function that the invention disclosed by Stiles does not disclose and which would not be contemplated in the context of the Stiles invention.

Further, even if the housing disclosed by Stiles were attached by a single bolt through a single bore, and therefore could rotate, the lateral orientation and movement of rod 2 inside the housing would actually prevent rotation of the housing. In the present application, the means through which the associated arm is rotatably retained is through pin 120, which is forced to rotate because of the lateral movement of the rod.

It is therefore submitted that Stiles does not disclose "means for rotatably retaining an arm associated with said housing" as claimed in claim 1 of the present application and that the claim as amended patentably distinguishes over Stiles.

Claim 5 likewise claims "a bore receiving a pin for rotation". It is submitted that Stiles teaches away from means to allow rotation about an axis through bore 22 and bolt 23, and that the claim as amended is therefore novel and patentable.

Thus, the Applicant respectfully submits that the claims as previously amended sufficiently distinguish the claimed invention from that taught in Stiles. Because Claims 2-4 and 6-9 are dependent on Claims 1 and 5, respectively, the Applicant respectfully submits that these dependent claims are also allowable over Stiles.

35 U.S.C. 103(a) Rejection

The Examiner has also rejected claims 7, 8/7 and 9 as obvious and therefore unpatentable over U.S. Patent No. 1,795,413 issued to Stiles, in view of U.S. Patent No. 2,077,620 issued to Dicke.

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In particular, the Examiner takes the position that Stiles does not show the ends of arm 1, but that it would be obvious, having regard to Dicke, to modify that connection to use elongated slots between arm 1 and head portion 21, or between arm 1 and any assist rod, so as to facilitate adjustability of the connections.

The arguments above as to the applicability of Stiles to independent claim 5, and therefore to 7, 8/7 and 9, which depend from 5, are hereby reiterated.

Further, it is submitted that it would not be obvious, in light of Stiles' requirement that the bracket 5 be "fixedly attached to the tie bar" or "rigidly connected to the tie-bar" to use elongated slots of the type disclosed by Dicke. Elongated slots in the tie-bar would necessarily allow lateral movement of the housing (over the length of the slots) which would not be translated into lateral movement of the tie-bar. Stiles therefore specifically teaches away from this type of excess motion by defining bracket 5 as rigidly or fixedly attached to the tie-bar.

Conclusion

The Applicant submits that the claims are in condition for allowance and respectfully requests that a Notice of Allowance be issued in this case. The Applicant also requests an interview be granted regarding the above arguments, if such would assist the Examiner in understanding the distinctions drawn by the Applicant between the prior art and the present invention.

Respectfully submitted,



Michael Glenn
Reg. No. 30,176

Customer No.: 22,862